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**Ex Parte**

Marlene Dortch
Secretary
Federal Communications Commission
445 12th H Street, SW, Portals
Washington, DC 20554

*RE: Application by Verizon New Jersey for Authorization To Provide In-Region, InterLATA Services in State of New Jersey, Docket No. 02-67*

Dear Ms. Dortch:

This ex parte responds to a number of questions from the staff. The staff asks why Verizon reduced the New Jersey non-recurring, service order charge for two-wire new loops (initial) and two wire hot cuts (initial) from $7.71 to $2.31 but did not also reduce the non-recurring service order charge for subsequent feature changes to $2.31. The short answer is that the New Jersey BPU required Verizon to handle these elements differently. While the BPU itself set specific rates for eight rate elements, including the $2.31 rate for two wire hot cuts and two wire loops, it ordered Verizon to re-calculate the remaining non-recurring rates, including the feature change rate, using certain BPU-developed guidelines. In any event, the Commission need not address the appropriateness of the non-recurring service order charge for feature changes, because, as noted below, this issue is currently pending before the BPU.

In its December 17, 2001 *Summary Order* and again in its March 6, 2002 *Final Order*, the New Jersey BPU adopted Verizon's Non-Recurring Cost Model but made a decision that eight particular non-recurring rate elements required adjustment. *See Summary Order* at 7, *see also Final Order* at 158. Those eight rate elements are: (1) two-wire new loops (initial); (2) two-wire new loops (additional); (3) two-wire loop hot cut (initial line); (4) two-wire loop hot cut (additional); (5) POTS/ISDN BRI Platform-Migration (initial line); (6) POTS/ISDN BRI Platform-Migration (additional); (7) POTS/ISDN BRI Platform (new line); (8) POTS/ISDN BRI Platform-(new additional line).

In addition to setting the specific rates for the eight identified rate elements, the BPU also directed Verizon to re-calculate its remaining non-recurring charges using certain modified

inputs specified by the BPU. *See Summary Order* at 7-8, *Final Order* at 162-163. These specific inputs required Verizon to rerun its model and to make certain adjustments to various work functions.

Verizon has complied with the New Jersey BPU's Orders. First, Verizon revised its rates to reflect the rates adopted by the BPU for the eight specified rate elements including the $2.31 rate for service orders for two-wire hot cuts (initial) and two-wire new loops (initial). Additionally, Verizon reduced to $2.31 the service order charge for line sharing and stand-alone NIDs because these UNEs, like two-wire loops and two-wire hot cuts, are most closely associated with the loop in that they all are aligned with the loop side of the main distribution frame. Consistent with the BPU's Orders, Verizon inserted the BPU's specified rates into its compliance rate filing. Second, Verizon re-calculated its other non-recurring rates by applying the specified inputs articulated by the BPU. While this re-calculation resulted in the reduction of a number of non-recurring rates, it did not change the $7.71 rate for subsequent feature change service orders.

These re-calculated rates are consistent with the BPU's Order and were expressley approved by the BPU. First, as we already explained, Verizon followed the BPU's directives for re-calculating all the non-recurring rates that were either not set by the BPU itself or were not closely associated with the UNEs for which the BPU set rates. Second, on December 10, 2001, Verizon filed its revised rates in compliance with the *Summary Order*. *See* December 10, 2001 Letter to Hentry M. Ogden, Acting Secretary of the New Jersey Board from Hesser G. McBride, Verizon counsel. Neither the New Jersey BPU nor any other party objected to the $7.71 rate for feature change service orders contained in Verizon's compliance filing. Moreover, the BPU officially adopted that rate and all other Verizon rates in its *Summary Order* and again in its *Final Order.*

In addition, the BPU-approved rate for feature change service orders does not run afoul of the relevant Commission standard. The Commission may reject Verizon's 271 application only if it finds that "basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principle would produce." *Vermont Order* ¶ 15. Neither of these two conditions is present here.

On the contrary, the BPU's treatment of the non-recurring rate for feature change service orders is entirely appropriate. The New Jersey cost model established service order charges for over 100 individual rate elements by determining the costs for five general categories of service orders. The service order charge for feature changes is included in the so-called "Loop" category. The cost model established a single service order charge based on the cost for the myriad of UNEs contained in that category.

Except for those rates set specifically by the BPU and the rates that Verizon reduced for UNEs that are closely aligned with the rates set by the BPU, the cost model adopted by the BPU develops a single service order cost for all UNEs in the "Loops" category based on average work

times, typical occurrence factors and forward-looking adjustments. The term "Loop" is actually a misnomer for this category since it actually includes all "line-related" UNEs (*i.e.* UNEs associated with a telephone line which includes the NID, the port and the switch). In addition to feature changes, the "Loops" category includes IDLC four wire (initial), end office trunk port (initial) and distribution subloop two wire loop new (initial). Attachment A contains a list of all of the "line related" rate elements that are assigned to the "Loops" category.

There is nothing about the structure of this model that demonstrates clear error on the part of the BPU. In fact, it would be inappropriate to reduce the nonrecurring service order rate for feature changes to the $2.31 rate that the BPU specifically set for two wire loops and hot cuts. Such a change would undermine the rate design for the service order charge. Instead of developing different service order rates for each UNE assigned to the "Loop" category, the New Jersey BPU chose to adopt a model that established a single service order rate for the entire group. The non-recurring service order rate for subsequent feature change service orders is really an average rate for different types of service orders. If Verizon were to disaggregate the service order costs for UNEs in the "Loops" category, it can reasonably be assumed that because of the unique service order cost for each of the UNEs, some of the specific rates would increase and some would decrease. This is especially clear in light of the fact that the UNEs in the "Loop" category have different levels of flow through and correspondingly different costs

For example, four wire new (initial), line port new (initial) and tandem trunk port (initial) -- all UNEs bucketed in the "Loops" category -- do not flow through at all. Attachment B contains a list of UNEs assigned to the "Loops" category which do not currently flow through and which Verizon anticipates will not have flow through capability before second quarter 2003. (Verizon's Non-Recurring Cost study was based on a three-year study period -- from second quarter 2000 until second quarter 2003.)
It would essentially undermine the basic BPU-approved rate design of the New Jersey cost model to disaggreate the nonrecurring service order rate for feature changes from other UNEs assigned to the "Loop" category. In addtion, reducing the feature change rate while leaving the other rates at $7.71 would result in Verizon under-recovering its service order costs.

Finally, even if there were some reason for Verizon to modify the rate for feature change service orders, that issue should be addressed first by the New Jersey BPU – not the Commission – because the BPU is in the best position to evaluate Verizon's costs under the Non-Recurring Cost Model it approved. Based on Verizon's review of the record, no party specifically challenged the non-recurring charge for feature change orders during the course of the UNE proceeding, and no party objected to Verizon's compliance filing with respect to this charge. *See Verizon's Supplemental New Jersey 271 Application, Supplemental Reply Declaration of Pat Garzillo and Marsha Prosini* ¶ 54.

AT&T is now challenging the appropriateness of the non-recurring rate for feature change service orders for the first time in a petition for reconsideration. *See AT&T's Motion for Reconsideration and Clarification of the Board's March 6, 2002 Order,* I/M/O Review of

Unbundled Network Element Rates, Terms and Conditions of Verizon New Jersey Inc, Docket No. TO00060356, filed April 3, 2002. Because AT&T's briefs did not raise this issue in the underlying state case, the New Jersey BPU is now addressing AT&T's specific complaint for the first time. And the New Jersey BPU should be allowed to address that issue in its ongoing proceeding.

The twenty-page limit does not apply as set forth in DA 02-718. If you have any questions, please do not hesitate to call me.

Sincerely,

cc: A. Johns
D. Shetler
R. Kwiatkowski
S. Pie

**Attachment A**


## Line Related Elements Assigned to Loop Category

Two Wire New Initial
Two Wire HotCut Initial
IDLC to Copper HotCut Initial
Four Wire New Initial
Four Wire HotCut Initial
Line Port New Initial
Line Port HotCut Initial
End Office Trunk Port Initial
Tandem Trunk Port Initial
Features - with Subsequent Service Order
IDLC / TR008 Port
SMDI Port
Standalone NID
Per DS0 Channel (Activation of individual DS0 channel on IDLC/TR008 port)
Signaling Transfer Point (STP) Port Termination
AIN Service Activation
Directory Listing Order
CSS Two Wire New Initial
CSS Four Wire New Initial
IDLC Two Wire New Initial
IDLC Four Wire New Initial
Distribution Subloop Two Wire New Initial
Distribution Subloop Two Wire LoopThrough Initial
Distribution Subloop Four Wire New Initial
Distribution Subloop Four Wire LoopThrough Initial
DDS/56 KD Loop New Initial
DDS/56 KD Loop Hotcut Initial
Line Sharing Initial
UCP/UPALP Coin Port Initial

**Attachment B**

## Line Related Elements Assigned to Loop Category - No Flow Through

IDLC to Copper HotCut Initial
Four Wire New Initial
Four Wire HotCut Initial
Line Port New Initial
Line Port HotCut Initial
End Office Trunk Port Initial
Tandem Trunk Port Initial
IDLC / TR008 Port
SMDI Port
Standalone NID
Per DS0 Channel (Activation of individual DS0 channel on IDLC/TR008 port)
Signaling Transfer Point (STP) Port Termination
AIN Service Activation
CSS Two Wire New Initial
CSS Four Wire New Initial
IDLC Two Wire New Initial
IDLC Four Wire New Initial
Distribution Subloop Two Wire LoopThrough Initial
Distribution Subloop Four Wire New Initial
Distribution Subloop Four Wire LoopThrough Initial
DDS/56 KD Loop New Initial
DDS/56 KD Loop Hotcut Initial
UCP/UPALP Coin Port Initial